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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 1999/78

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Summary

The Special Rapporteur continued to carry out his mandate by maintaining cooperation with the countries he had visited (South Africa, France, Kuwait) and drawing on the various communications transmitted to him by the Governments of a number of countries (Belarus, Cyprus, Costa Rica, Denmark, Iraq, Finland, Netherlands) and by non-governmental organizations. This report adds further details to the report he submitted to the last session of the General Assembly (A/54/347).

The Special Rapporteur observes that manifestations of racism, racial discrimination and related intolerance are constantly recurring in different regions of the world. In addition to the cases of xenophobia and anti-Semitism, the Special Rapporteur notes that discrimination against the Roma persists in a number of European countries, where they are subjected to exclusion and marginalization. He undertook a mission to the Czech Republic, Romania and Hungary, the report on which can be found in an addendum (E/CN 4/2000/16/Add 1). The Special Rapporteur also demonstrates that discriminatory application of the death penalty still continues in the United States of America.

The report further contains allegations transmitted to the Governments of the following countries: Germany, Canada, France, Spain, United States of America, Russian Federation, India and the Islamic Republic of Iran. With reference to the follow-up to field visits, the report contains information on measures taken by the Governments of South Africa, France and Kuwait.

In his conclusions and recommendations, the Special Rapporteur considers that the Commission on Human Rights, in cooperation with the Governments concerned, should pay particular attention to the Roma in order to secure their integration in the countries where they live; action on their behalf should essentially be based on improving the teaching and vocational training intended for them and on the development of awareness of differences and of tolerance among the majority population groups. As regards the death penalty in the United States, he hopes that the advent of a new era will also provide an opportunity for this great country to envisage criminal sanctions more in accordance with international human rights standards and in keeping with the predominant trend towards abolishing capital punishment. Lastly, the Special Rapporteur suggests that the Commission should continue to give priority to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should give a place of prime importance to education in the rights of the individual and the culture of tolerance, peace and non-violence.

Introduction

1. This report has been submitted in accordance with resolution 1999/78 (III) adopted by the Commission on Human Rights at its fifty-fifth session. It should be read in conjunction with the report submitted by the Special Rapporteur to the fifty-fourth session of the General Assembly (A/54/347).

2. The present report, which comprises six chapters, contains information on the activities of the Special Rapporteur in 1999 (chap. I) and measures taken by Governments following a field visit or on their own initiative (chaps. II and V). Attention is drawn to the most significant racist acts and the discriminatory practices of 1999 (chap. III). The Special Rapporteur also discusses the allegations he has received and transmitted to the Governments concerned (chap. IV) and lastly lists his conclusions and recommendations (chap. VI).

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Field visits

1. Mission to Hungary, the Czech Republic and Romania

3. The Special Rapporteur visited Hungary, the Czech Republic and Romania from 20 to 30 September to investigate the situation of the Roma in those countries. His findings are contained in document E/CN.4/2000/16/Add.1.

B. Missions under consideration by the Special Rapporteur

4. During the year 2000, in order to amplify his analysis of the situation in different parts of the world and consider, along with the parties concerned, the allegations brought to his attention, the Special Rapporteur intends to visit Australia, Peru and possibly India.

II. REPLIES OF GOVERNMENTS TO THE SPECIAL RAPPORTEUR'S REQUESTS FOR INFORMATION

5. In accordance with paragraph 28 of resolution 1999/78, the Special Rapporteur addressed a circular letter on 17 May 1999 to Governments, organizations of the United Nations system and non-governmental organizations. This chapter includes the main points of the replies relating specifically to the Special Rapporteur's mandate which were received from the Governments of Belarus, Cyprus, Costa Rica, Indonesia and Iraq. The Special Rapporteur has also received from the Governments of Denmark, Finland and the Netherlands copies of periodic reports recently submitted to the Committee on the Elimination of Racial Discrimination; these reports contain useful information on the various measures taken in these three countries and may be consulted under the symbols CERD/C/319/Add.1, CERD/C/320/Add.2 and CERD/C/319/Add.2, respectively. The communications from South Africa, Kuwait and France refer specifically to the follow-up of field missions and are summarized in chapter V. The full text of these communications containing additional information can be consulted in the secretariat of the Office of the High Commissioner for Human Rights.

6 The contributions received from non-governmental organizations (Amnesty International, December 12 Movement International Secretariat, Espace Afro-Américain, European Roma Rights Centre and SOS-Racismo Catalogna) were incorporated into chapter III (or into chapter IV when they concerned allegations)

A Belarus

7 The authorities of the Republic of Belarus have declared that the Public Prosecutor's Office has not filed criminal proceedings against officials or individuals for acts of incitement to national, racial or religious discord, or any other manifestations of intolerance. The authorities have further recalled that the Constitution and laws of Belarus guarantee the right of equality of all persons, including foreigners and stateless persons, residing permanently in the country.

8 As regards measures by the Government to reinforce prevention of deliberate acts designed to stir up national, racial or religious hatred or discord or to undermine dignity or national honour, or acts aimed at granting privileges or restricting rights directly or indirectly based on race or national origin, a draft revision of the penal code was adopted at first reading on 17 December 1997 by the Chamber of Representatives of the National Assembly and submitted to the Chamber of Representatives for consideration at a second reading.

9 The draft provides for the prosecution and punishment of acts such as:

(a) Genocide, that is to say, acts committed with the aim of destroying a national, ethnic, racial or religious group;

(b) Incitement to racial, national or religious hatred or discord;

(c) Violation of the rights of citizens to equality under the law;

(d) The establishment of groups or organizations that cause injury to persons or infringe the rights of citizens;

(e) Crimes committed against one or more representatives of any segment of the civilian population in the context of an attack relating to the national, ethnic or racial origin of that segment of the population or to its political or religious views.

B Cyprus

10 The Government of Cyprus indicates, inter alia, that although it has no body responsible for minority matters, it has an ombudsman who is competent to take cognizance of complaints from persons who consider that their fundamental rights have been violated. A National Human Rights Institute has also been established, comprising government officials, non-governmental organizations and members of Parliament. One of its basic functions is to investigate complaints from individuals who consider that their rights have been violated. It also submits proposals to the Government to amend laws when their provisions do not conform to human rights standards.

C. Costa Rica

11. The Government of Costa Rica has sent information on the ethnic composition of the population and on penal and educational measures adopted to combat racial discrimination and xenophobia. Particular stress has been laid on measures on behalf of the indigenous populations.

12. In Costa Rica individuals belonging to indigenous ethnic groups (approximately 35,000 persons) are living side by side with members of the Black race and persons of oriental origin. For many years now, Costa Rica, which is traditionally a host country for immigrants, has contained a large proportion of persons of very different socio-cultural origins (for example it is thought that in recent years at least 300,000 to 400,000 persons of Nicaraguan origin, accounting for some 25 per cent of the country's population have entered Costa Rica); this influx has given rise to an extremely rich culture with an acceptable level of tolerance.

13. It should be noted, however, although the situation is encountered throughout the world, that economic immigration has led to a recrudescence, while not of exacerbated racism or xenophobia, nevertheless, a measure of intolerance which in a country with a long democratic tradition as a host country is a matter for concern. For example, Costa Rica's most widely read newspaper published an article on 15 August 1999 entitled "Ticos (Costa Ricans) are the most intolerant. Study detects a decline in democratic values". This article states that 13.7 per cent of Costa Ricans are irritated by Nicaraguans and 9.8 per cent by atheists. Despite the view of society these figures give, there have been no violent reactions in terms of xenophobia, racial violence or serious intolerance in Costa Rica. This would seem to be attributable to a large extent to the education in democratic values and respect for fundamental rights which the country dispenses.

14. During the period 1998-1999, the Office of the Ombudsman reported that it was approaching the question of the rights of the indigenous peoples on the basis of two well-defined strategies. The first, concerning a project for the promotion and protection of the indigenous peoples, was conducted from November 1997 to December 1998 with the support of the Embassy of Canada. The second was adopted in response to consultations and complaints submitted directly to the Office of the Ombudsman by inhabitants of the various indigenous communities. The project emerged as a result of the Ombudsman's observations regarding the current need for Costa Rica's public sector to provide an adequate platform for action to enable the country's society to overcome the legal, political and cultural obstacles which leave Costa Rica's indigenous peoples with very limited options for developing their potential, whether individually or collectively, and this situation adversely affects their fundamental rights.

15. The experience of the promotion and protection of the rights of the indigenous peoples in which the Office of the Ombudsman has been engaged since 1993 has revealed the systematic exclusion of these peoples from decision-making which directly affects their interests and those of their communities, some of the most frequently observed problems are: being stripped of their land, irrational exploitation of natural resources, pollution of the environment, lack of basic services as regards health, education, housing and access to credit, domestic violence and systematic non-compliance with the Indigenous Act. The aim of the project for the promotion and protection of the indigenous peoples was to support institutional and community capacity, on the basis of initiatives from the indigenous population itself, in the territories of Talamanca and southern Costa Rica.

16 As regards legislative measures, Act No 7711 on the elimination of racial discrimination in educational curricula and in the mass media was adopted on 8 October 1997 Article 371 of the Penal Code punishes the practice of racial discrimination in employment in the public and private sectors

17 As regards means of prevention of discrimination, a state body is responsible for censoring any propaganda affecting a person's dignity or human rights Police action via Internet is possible provided that a judge has ordered the communications to be tapped, and guarantees that higher considerations render the violation of individual privacy legitimate

18 It may be further noted that, as part of the work performed by the constitutional jurisdiction and the Office of the Ombudsman, constant care is taken to ensure that action by the State does not for any unfounded motive affect the principles of equality and non-discrimination Constitutional case law and the decisions of the Office of the Ombudsman show that equality before the law exists as a matter of principle

D Indonesia

19 The Special Rapporteur has received the conclusions and recommendations of the commission established by the Government of Indonesia to investigate the 1998 riots which provoked acts of violence mainly against the Chinese minority (see E/CN 4/1999/15, paras 9 and 113-126) Although the commission confirmed that the majority of the victims were from the Chinese minority, it did not attribute the behaviour of the rioters to racist motives The riots appeared to have been set off by the conjunction of two factors, namely the effort by the political elites to hold on to power and the deterioration of Indonesia's economic and monetary situation

20 The commission has named a number of persons of the highest ranks in the security and armed forces as being responsible for the riot, but considers it difficult to gather evidence against the persons directly guilty of rape and sexual violence It has, inter alia, recommended that the victims and/or their families should receive compensation The Special Rapporteur hopes that this recommendation will be followed up, he invites the Indonesian Government to report on its implementation

E Iraq

21 The Government of Iraq indicates that no incidents involving racism, racial discrimination or xenophobia has been recorded in its territory Its combat against racial discrimination is founded on solid constitutional bases underpinned by the principle of full observance of the civil, political, economic and cultural rights of all the minorities which go to make up Iraqi society Kurds, Turkomans, Assyrian Syriacs, Chaldeans and others Legislation in Iraq guarantees minorities free exercise of their rights in a context of observance of basic principles, the first of these is to achieve equality and non-discrimination among citizens, whatever their national origins or their religious or linguistic affiliations, and not to favour any one group over the others, the second principle is to respect Iraq's sovereignty, the unity of its people and its territorial integrity

22 Article 19 of the Constitution of Iraq provides that citizens are equal before the law, without distinction on grounds of sex, race, language, social origin or religion. Iraqi legislation in force recognizes the national rights of the Kurds and provides a democratic legal framework to meet their political needs, bearing in mind their situation in neighbouring countries where their national and historical existence is denied. This was the reason for the adoption of Act No. 33 of 1974, granting autonomy to Iraqi Kurdistan, and Act No. 56 of 1980 concerning the regional legislative council.

23 The Iraqi Government also states that it has recognized the cultural and social rights of the Turkomans under Revolution Command Council Decree No. 89 of 1970, and the rights of the Syriac-speaking community (Assyrians and Chaldeans) under Decree No. 251 of 1972 on the same footing as the Sabian and Yezdi communities, thus demonstrating, according to the Government, the protection the State provides to religious communities, in accordance with article 18 of the International Covenant on Civil and Political Rights.

III. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

A. Discrimination against Blacks (negrophobia)

24 Amnesty International has informed the Special Rapporteur that the legal system in the United States is still heavily biased as a result of racial prejudices, the consequence of which is discrimination in the application of the death penalty to African-Americans. In its report published in May 1999 bearing the title United States of America: Killing with prejudice. Race and the death penalty in the USA, Amnesty International maintains that it is "undeniable that the death penalty in the United States of America is applied disproportionately on the basis of race, ethnicity and social status. Coupled with the near-total failure of the authorities to address or even recognize this reality, the persistent presence of racial bias only reinforces the other convincing arguments against any use of the death penalty."

25 The statistics supplied in support of Amnesty International's view reveal that of the 3,549 prisoners still on death row (July 1999 figures), 46.75 per cent are White, 42.24 per cent are Black (although Blacks represent approximately 12 per cent of the population), 8.09 per cent are of Hispanic (Latino) origin and 1.41 per cent are Native Americans (Ameridians), while Asians represent 0.79 per cent. Discrimination in the application of the death penalty is particularly flagrant between the homicide of a White by a Black and that of a Black by a White, "in 96 per cent [of reviews of death sentence] there is a pattern of either race-of-victim or race-of-defendant discrimination or both".

26 The Special Rapporteur had already drawn the attention of the Government of the United States to this problem following his mission in 1994 (E/CN.4/1995/78/Add.1, para. 63). He hopes that steps will be taken to bring about greater equality in the process of American justice.

B. Anti-Semitism

27. As in previous years, the Government of Israel has provided the Special Rapporteur with the conclusions of the research carried out by the University of Tel-Aviv on major trends in anti-Semitism worldwide in 1998. The University's analysts observed that "the year 1998 was marked by an increase or intensification of all aspects of anti-Semitic activity. While the number of major violent attacks (involving the use of a weapon and especially explosives) was almost as high as in 1997 (36 compared with 38 in 1997), most of these attacks were more violent, caused more damage and indicated the enhanced local and international organizational capabilities of the perpetrators. Moreover, 1998 witnessed outbursts of violence in countries previously quiet in that respect - Greece, Serbia, Uruguay and South Africa - not to speak of the overt political and uncurbed usage of anti-Semitic motifs and intensified atmosphere of violence in Russia. Further, an increase, albeit small, was recorded in major violent incidents (unarmed attacks on persons and damage to private and communal property) - 121 compared to 116 in 1997. Here again, several incidents involving the beating of rabbis in the streets of Russia, Argentina and the United Kingdom [were reported]. In the United States, a 2.5 per cent rise in anti-Semitic incidents was reported after a three-year decline ..."

28. "An analysis of regions should commence with Russia, where violence against Jewish life and property by means of arson and explosives, accompanied by popular incitement, and the most severe anti-Semitic rhetoric by politicians heard in decades went undenounced by the body politic, including intellectuals. The Communist Party, the largest opposition party, used blatant anti-Semitic slogans as a political weapon which the Parliament failed to denounce (see also chapter IV, section F, below). While the legal tools to act against racism exist, the absence of official reaction and the reluctance to use these tools have only served to encourage and legitimize this form of extremism ..."

29. "In North America, the rise in the number of incidents was accompanied by a general upsurge of anti-Semitism, manifested in the continuing proliferation of hate sites on the Internet ... anti-Semitic sentiments persisted especially among White right-wing extremists and Black Muslims."

30. "In South America, a quiet continent for many years (except for the two bombings in Buenos Aires), there was an increase in extreme right and neo-Nazi activity, influenced by the European scene. The collapse of two Jewish-owned banks ... prompted anti-Semitic reactions and expressions ..."

31. "In parallel to these developments, Muslim extremists were suspected of cooperating with local ultra-rightists or leftists to further violence in Greece and South Africa, and intensify anti-Semitic activities in ... Australia and the United Kingdom."

32. "The weakening of local right-wing organizations had been replaced either by regional reorganization (for example, EuroNat, initiated by the French National Front Party, and its Scandinavian counterpart NordNat) and by international organization, such as the world Nazi conference planned for April 2000 in Chile. The new concept 'leaderless resistance', evident

now in Canada, France and Britain, means that individuals and small groups can circumvent both stronger police enforcement of laws and better communal protection, as well as enhanced governmental measures (such as in Norway, Sweden and Denmark)".

33. The University of Tel-Aviv analysts also noticed that electoral success or failure affects relations between political parties and extremist movements and ideas, as was shown by the rise of the Party of Hungarian Justice and Life (MIEP) in Hungary and the decline of the Republican Party in the Czech Republic and the Slovak National Party in Slovakia. They emphasized, however, that election results do not fully reflect the influence of and potential support for extremist parties and movements, much as numbers of violent attacks do not reflect the damage they cause or the stress they inflict.

34. During his mission to Hungary (27-30 September 1999) the Special Rapporteur met representatives of the Jewish community, who expressed fears regarding the anti-Semitism propagated by the extreme right-wing MIEP party (Party of Hungarian Justice and Life). They also said that the members of the Jewish community had not been fairly compensated for the discrimination they had suffered, for the Holocaust of which their parents had been victims during the Second World War or for their plundered property. While the victims of Communism had received 1 million forints in compensation, the Jews had received only 15,000. Much of the property that had belonged to Jews before the war was still in the hands of the State, which was slow to return it. The Hungarian Parliament had moreover not yet passed an act condemning the denial of the Holocaust and incitement to racial hatred.

C. Discrimination against the Roma

35. In addition to the situations described in the addendum to this report (E/CN.4/2000/16/Add.1, "Mission to Hungary, the Czech Republic and Romania"), the Special Rapporteur is concerned about the discrimination experienced by Roma asylum-seekers in Europe. In view of the discrimination they have suffered in some Central and Eastern European countries, particularly the Slovak Republic and the Federal Republic of Yugoslavia, and the acts of violence against them perpetrated by racist groups, many Roma seek asylum in Western European countries. Obstacles arise at frontiers, however (reintroduction of visas, for example, between Finland or Norway and Slovakia), and when they do manage to enter a country they are collectively deported after a summary review procedure. In October 1999, 70 Roma asylum-seekers were deported from Belgium to Slovakia. According to several human rights organizations, a mass deportation of this nature is not in accordance with international standards concerning the right of asylum (which require each application to be considered individually) and may be regarded as discriminatory.

IV. REPLIES TO ALLEGATIONS TRANSMITTED TO GOVERNMENTS BY THE SPECIAL RAPPORTEUR

36. In 1999, the Special Rapporteur transmitted allegations of racism, racial discrimination and xenophobia to the following Governments for comments: Germany, Australia, Spain, United States of America, Russian Federation and the Islamic Republic of Iran. He also received replies from Canada and the United States to communications that had been pending since 1996 and 1998 respectively. The Special Rapporteur is still awaiting the conclusions of the Israeli

commission established to consider the question of blood donations by the Ethiopians, as promised by the Israeli Government following allegations of racial discrimination against the Falasha (see the communication dated 2 February 1996 in E/CN.4/1997/71, paras. 120-126). The Special Rapporteur is also waiting for the South African Government to send him the results of the investigation into the xenophobic acts of which a Mozambican and two Senegalese appear to have been the victims near Pretoria on 3 September 1998 (see E/CN.4/1999/15, paras. 102-105).

A. Germany

37. It has been reported that Sinti and Roma minorities are being specially registered in the databases and records of the Bavarian police as "Roma/Sinti type", "gypsy type" or the old Nazi term "Landfahrer" ("vagrant"). The Central Council of German Sinti and Roma has been informed of the report of the Bavarian Data Protection Commissioner of 16 December 1998 which states that Sinti and Roma are being registered generally on special police files without reason or legal basis by their personal details and even the number plates of their cars and further data. The police justify this storage as supposedly "vorbeugende Verbrechenbekämpfung" ("preventive crime combat") and explain that Sinti and Roma "could be a public danger".

Government reply

38. Executive and legislative responsibility for the police in Germany does not lie with the Federal Government but with the governments of the Länder (provinces). The only exceptions are the Federal Border Police (Bundesgrenzschutz) and the Federal Criminal Investigation Agency (Bundeskriminalamt). Thus, practices of registration in the databases and the records of the police fall under the responsibility of the Länder. Within the areas of responsibility of the Federal Government terms such as "Roma/Sinti type", "gypsy type" or "vagrant" are not used as categories in the INPOL data-processing system.

39. Computerized registration was also the subject of a question in the Bundestag put forward by Alliance 90/The Greens ("Criticism of racist classification" in police records). In its answer, dated 19 December 1996, (Bundestag Printed Materials 13/6623) the Federal Government stated that "... doing away with such classifications altogether does not come into consideration because of their indispensable nature for police work ..." and that "... the collection of such auxiliary characteristics for police use only is not contrary to article 3 (3), first sentence, of the Basic Law ...".

Additional reply by the government of the Land of Bavaria

40. With reference to the issue addressed in the communication from the Special Rapporteur, the Bavarian State Ministry of the Interior has provided the following information:

41. "The Bavarian police do not keep records of all members of the Sinti and Roma ethnic groups. Only in individual cases are such persons registered as ethnic 'Sinti and Roma' as part of the personal details noted during police questioning, when such a record is necessary for criminal-tactical reasons and the information is provided on a voluntary basis, and types (type Sinti/Roma) as part of a physical description recorded either on the basis of information provided

by witnesses/injured parties if the suspect is unknown, or by the police if the suspect is known (and present) during the identification procedure, only the outward appearance, and not the actual membership of the Sinti or Roma ethnic groups is of relevance here."

42. "For practical reasons the police consider that this procedure should not be altered because significantly reducing the number of characteristics described fails to meet the needs of the identification process. To this is added the not insignificant issue of data protection laws, for using generic - and thus mostly inexact - terms will produce a greater number of possible suspects, meaning that more photographs of innocent people have to be shown to eyewitnesses than is in fact necessary."

43. In this context the accusation that the police justify recording membership of the Sinti and Roma ethnic groups as "preventive crime combat" and say that Sinti and Roma can present "a danger to the public" is dismissed as unfounded. On the basis of many statements from the Bavarian State Ministry of the Interior, the Bavarian Commissioner for Data Protection informed the Central Council of German Sinti and Roma on 1 August 1996 that there is no reason to object to the police procedure described above.

44. In reaction to the comments of the Central Council of German Sinti and Roma on the eighteenth Activity Report of the Bavarian Commissioner for Data Protection dated 16 December 1998, the following information was communicated:

> "The procedure described in paragraph 5.3.5.2 (p. 48) of the above-mentioned report has been abandoned as of year-end 1998, so that for all practical purposes the matter that gave rise to this report is settled. No general record is kept of people's membership of the Sinti and Roma ethnic groups, nor of the membership of nomadic groups in general. Data relating to nomadic groups are only recorded in cases of actual disturbance of the peace (e.g. when prosecuting criminals)."

B. Australia

Case 1999/1: Allegations of discrimination against indigenous children

45. It has been reported that "indigenous children are still being removed from their families and communities at a disproportionately high rate". Allegedly, "this trend was linked to the effects of past removal policies, poor socio-economic status and the systemic racism in broader society".

46. It has been further stated that:

> "It is the contact with the child welfare and juvenile justice systems which leads to many indigenous children being removed from their families. Indigenous children throughout Australia still remain significantly over-represented in care, particularly in long-term foster care, and a high percentage of these children live with non-indigenous carers."

C. Canada

Communications dated 12 February 1996

47. According to reports sent to the Special Rapporteur, "Quebec's population has split after the referendum on sovereignty on 30 October 1995" (No: 50 6 per cent, yes: 49 4 per cent, turnout: 94 per cent) and that "several radical movements have since come into being and expressions of racism, xenophobia and intolerance have allegedly multiplied".

48. According to the reports, "the constitutional debate is increasingly marked by emotional outbursts, and statements are increasingly polarized. Each of the contending parties accuses its adversary or adversaries of racism or even fascism. More and more movements have emerged, leading to a radicalization of the debate and (conflicting) territorial claims". The situation is described as "disturbing".

Government reply (extract)

49. The Government considers that Canada's laws and judicial system ensure adequate, accessible and effective protection for all Canadians against manifestations of racism, discrimination or xenophobia. It stresses that a complaint of this nature to an international body is neither justified nor necessary in the present context. It also wishes to stress that the domestic judicial system has the capacity and the competence to respond to complaints of this type and is in a position to grant appropriate compensation should they prove valid. In the case in question, no domestic judicial remedy has been sought by the complainants regarding these allegations. The Canadian Government considers that the said allegations should first be examined by the Canadian judicial system before recourse is had to international machinery. Lastly, the Canadian Government is aware of and concerned by the various manifestations of racism and intolerance and considers that a state of vigilance should be maintained so that problems of this kind, from which no society is safe, can be faced up to and eliminated.

D. Spain

1. Case 1999/1: Allegations of abuses of authority and racially motivated acts of aggression by the police

(a) Gerona

50. The Investigation and Action Group on Ethnic Minorities (GRAMC) reports that immigrants are subjected to harassment by the police (5 March 1997). According to certain sources of information, during recent months the police have launched a campaign of random identity checks of immigrants; they have been checking the identity papers of individuals standing in queues at the offices of the civil government responsible for the issue of permits and of selected adolescents aged 15 or 16 at school entrances. In addition, the officials of the GRAMC state that the police attempted forcibly to enter four flats occupied by immigrants at Santa Coloma de Farners looking for individuals without papers. The Civil Governor, Robert Brell, denies these allegations and states that immigrants are treated with "extreme courtesy".

Government reply

51. As regards the allegation by the GRAMC association concerning a random identification and harassment operation by the police against immigrants on 5 March 1997 in the province of Gerona, it must be emphasized that none of the alleged acts were committed either in Government departments or in teaching establishments.

52. The only case in which the identity of immigrants must be verified arises when they come to obtain a permit and the police officers responsible for security on the premises verify their identities in order to authorize entry into the building and movement within it; if appropriate, such identity checks may be made at the request of the police authorities. In the latter case, it should be emphasized that members of the police forces have a duty and an obligation to comply with the legislation in force when arresting any person - whether an immigrant or not - who is wanted by the police and has been traced by them.

53. As regards the allegations to the effect that members of the national police force attempted forcibly to enter four flats, it should be stated that there is no knowledge of the alleged facts and that up to the present time the authorities have received no information on any legal proceedings instituted against the officials concerned for breaches of articles 204 and 534-1-1 of the Penal Code.

(b) Vigo

54. **Mr. Kane, a Senegalese citizen, has filed a complaint against the local police for abuse of authority, illegal detention and ill-treatment (16 March 1997).** He alleges that on 16 March 1997 at 5.30 p.m., four members of the Vigo local police force arrested him illegally on Samil beach and took him up a hill; during the journey, which lasted an hour, they insulted and struck him and threatened him with deportation. The local police deny these accusations and state that he was arrested at 7.05 p.m. and arrived at the police station 10 minutes later. However, eyewitnesses confirm the time given by the Senegalese national, and a woman who went to the police station to ask about him has stated that a policeman said to her: "Don't worry, they have probably taken him for a little walk; I am sure that he is already back at Samil". The lady coordinator at the Information Centre for Foreign Workers (CITE) states that there have been numerous cases of "little walks" of that kind, but that the victims hardly ever lodge complaints because they are afraid of reprisals. In the case under consideration, Mr. Kane's papers were in order and he had a regular job. In view of the seriousness of the facts, which demonstrate that members of the local police force falsified the times in the report on the case, a number of inquiries were opened by Amnesty International, the mayor of Vigo and the Committee against Racism and Xenophobia, which sent a report on the "Kane affair" to Queen Sophia. The National Social Service Institute (INSERSO) has condemned these acts, and the case is at present before court No. 5 in Vigo. The public prosecutor has called for a maximum sentence of three years' imprisonment for the officials concerned.

Government reply

55. The Vigo police station recorded in its files a complaint bearing the serial number 5138, dated 17 March 1997 and deposited at 1.50 a.m., to the effect that Mamadou Kane, a Senegalese

national, bearer of residence permit No. 1266737-R, born at Kanene (Senegal) and residing at 25 Avenida Fragoso, first floor, right, in Vigo, declared that he had been a victim of ill-treatment by members of the local police on 16 March 1997 at about 5.30 p.m. The officers had checked his identity on the Paseo de Samil in Vigo and then had taken him out of town in a police car to a place which the complainant believed was in the university quarter, there he had been subjected to ill-treatment and insults. Subsequently, at the request of the complainant, the municipal police officers took him to the police station in Vigo, where he arrived on the 16th, but at 7.15 p.m. His arrival was registered under serial number 660, and he left at 7.30 p.m. on the same day.

56. The file was transmitted to investigating magistrate No. 5 in Vigo, who examined the case. The information obtained indicates that the municipal police officers implicated were tried and sentenced by the provincial court in Pontevedra. One was sentenced to 4 years' imprisonment and 10 years' full deprival of civil rights and the others to 2 and 3 years' imprisonment respectively and 8 years of full deprival of civil rights. They were also condemned jointly to pay 100,000 pesetas to the victim as compensation for moral prejudice and a fine of 15,000 pesetas for assault and battery; to four periods of weekend detention, and to payment of costs. An appeal against the sentence has been submitted to the court of cassation.

(c) Madrid

57. **A former member of the Civil Guard shot and killed a young Moroccan aged 19 (20 June 1997).** On 20 June at 4 a.m. Miguel Ángel M.U., a 32-year-old Civil Guard reservist, shot a young Moroccan national, Mourad El Abedine, in the back. The young man, who had arrived in Spain at age 9, was walking with his friends and his girlfriend when they passed in front of a man lying in a corner, apparently drunk. The young man dropped back to tie up his shoelace, and the man shot him in the back with a .32 Astra revolver. A woman living in the neighbourhood called the police, who arrived on the spot a few minutes later and arrested the attacker. The young man was beyond help and died. An inquiry was opened to determine why the murderer was armed, since he did not meet the necessary conditions to be in possession of a service weapon for "self-defence". Initially the hypothesis of a racist crime was not taken up, however, several witnesses have affirmed that Miguel Ángel M. said to the young man: "Hey, you there! Are you an Arab?" and fired when the latter answered affirmatively. Following that incident a number of demonstrations were organized on the initiative of the Moroccan community.

Government reply

58. An inquiry (No. 6648/5) into the death of the young Moroccan national Mourad El Abedine on 20 June 1997 was opened on 20 June 1999 and conducted by investigating magistrate No. 39 in Madrid. The provincial court of Madrid, by decision No. 69/99, returned a verdict of murder without circumstances modifying criminal liability. However, it is impossible to affirm that in this case racial or anti-Semite motivations or any other type of discrimination based on ideology, religion, convictions, ethnic origin, race or nationality of the victim were present.

(d) El Ejido (Almeria)

59. **A 22-year-old Algerian reported that he had been tortured by the police (26 April 1997).** According to his version of the facts, J. Andalusi was arrested by two policemen from El Ejido, who took him out into open country, forced him into a dried-out pond and beat him with truncheons until he lost consciousness. However, the police state that he was a violent man who had already been arrested several times and that he was injured while they were trying to arrest him. At the request of the workers' commissions and the Paz y Solidaridad Foundation - two organizations representing Andalusi - the case was referred to the Defender of the Andalusian People.

Government reply

60. According to information supplied by the principal police prefecture, on 26 April 1997 the police authorities in El Ejido received complaint No. 483/97. The preliminary inquiry (No. 278/97) was assigned to investigating magistrate No. 1 in the same locality. The local police arrested Rameni Hicham, born in Algeria in 1975, Abdeljalil Chabouni, born in Morocco in 1968, Said Misahoui, born in Algeria in 1977, and Jaimai Andalousi, born in Algeria in 1975, on suspicion of having stolen a car.

61. The police station files indicate that Jaimai Andalousi was arrested eight times between 1995 and 1998 for various offences: infringements of the law concerning foreigners, illegal use of motor vehicles, robbery with violence, obstructionism, sexual brutality, wounding with a knife and threats. It was not the national police force which intervened, but the El Ejido local police and the gendarmerie.

(e) Córdoba

62. **The municipal authorities are investigating the alleged ill-treatment of a Senegalese national by a member of the local police on 23 October 1997.** El Hadji G., who had been living in Córdoba for 10 years and whose papers were in order, was insulted by a policeman, who called him a "stupid bastard" several times and told him that he was going to teach him to respect the Spanish police. He handcuffed him and hit him on the head (causing an injury to the skull for which he subsequently had to be hospitalized), and threatened to withdraw his municipal hawker's licence. The colleagues of the policeman asked him to cool down. El Hadji was then brought before the judge on duty, who ordered his immediate release. The presumed aggressor affirms that El Hadji attacked him: "The Senegalese pushed me with his hand and hurt me; he attacked me without any reason". This is denied by the Association for the Defence of Immigrants in Córdoba, which has asked the municipal authorities to open an inquiry to clarify the facts. The Immigration Office, for its part, has criticized the mayor of Córdoba for the "inertia which the municipal authorities have shown in this case" and pointed out that that indifference is liable to "give rise to behaviour patterns among the inhabitants of Córdoba which are alien to the spirit of openness and solidarity which characterizes them".

Government reply

63. According to the police station, complaint No. 803 was filed with the municipal police on 23 October 1997. In that complaint El Hadji G., a Senegalese national, was accused of

infringements of the traffic regulations and subsequently declared that he had been subjected to racist treatment. The national police force had not intervened, as it had not been informed of the details of the incident.

(f) Melilla

64. **An Algerian national is beaten up, but the police fail to intervene (25 October 1997).** The victim was asleep in the Red Cross premises when several police officers forced him down into the courtyard. There several individuals in civilian clothes were waiting for him; they beat him with iron bars, with the result that he had to be hospitalized. The police officers watched the scene and made no move. The Melilla Association for Human Rights has lodged a complaint against the individuals concerned.

Government reply

65. On 22 October 1997 complaint No. 27,295 was lodged at the police station. In that complaint Mohammed Zenagis, an Algerian citizen, declared that he had been injured during an attack in the former Red Cross hospital in the city and mentioned that members of the local police had been present when the incident took place. Following that incident, preliminary inquiry 2.056/97 was assigned to investigating magistrate No. 2 in Melilla. The case was dropped on 28 October 1997.

(g) Lérida

66. **Three police officers beat up an African in the Barrio Antico (12 November 1997).** Dennis J.N. lodged a complaint with the duty court against three police officers who had struck him after asking for his identity papers. According to the police, he had refused to show his papers and had resisted the officers, who had consequently had to overpower him. However, a woman who was present at the scene came before the court to denounce the aggression and confirmed the version of the victim.

Government reply

67. On 11 November 1997 members of the national police forces from the provincial police headquarters in Lérida, in the performance of their duties, arrested Denis Noe Joukwe Njigang, a Cameroon national, born in Cameroon on 15 April 1972, the son of Valentin and Emiliane, residing at 4 Via Sant Marti, fourth floor, and bearer of identity papers No. X-2039602-P, in the old quarter of Lérida on suspicion of "drug trafficking". The violent reaction of the latter to the members of the police force present at the time of the arrest gave rise to an altercation, as a result of which the arrested person and one of the police officers present were injured. The latter fact was mentioned in the report established (No. 43,231), which was referred to investigating magistrate No. 7 in Lérida and which gave rise to the first formal conclusions of the investigation (No. 1207/97).

68. When the prisoner was remanded in custody he made a specific charge of ill-treatment against the police officers who arrested him. As a consequence, the officers concerned were summoned before the same judicial authority to make statements in the capacity of persons

charged, and the government lawyer had to intervene in their defence. On 27 March 1998 the prosecution, represented by Sonia Martínez Albiñana a member of the Lérida Chamber of Advocates, requested that the case be dismissed and that proceedings for a minor infringement be instituted. Hitherto the parties have not been notified of the institution of any such proceedings. Denis Noe Joukwe Njigang is at present in detention in the holding centre for aliens in Barcelona; the authorities are expected to deport him.

2. Case 1999/2. Allegations of acts of violence committed by individuals or groups

(a) Santa Coloma de Gramenet (Barcelona)

69. **An immigrant from Bangladesh attacked by five skinheads (25 January 1997).** The attack took place in the Montigalà district of Badalona, where the victim was punched with knuckledusters, kicked, and then abandoned, by five skinheads. The young man, who hailed from Bangladesh, was able to return to his home in Santa Coloma, where he was assisted by neighbours, who took him to the hospital.

Government reply

70. Mohamed Ayub Ali, an immigrant from Bangladesh, holder of Bangladeshi passport No. H-042593, born at Manikgonj (Bangladesh) on 3 March 1964, the son of Chandu and Mollah, residing at 110 Via Monturiol, flat No. 1, at Santa Coloma de Gramenet (Barcelona), was the victim of an attack by four youths who, after accosting him in the street, punched and kicked him many times and left him lying unconscious on the ground. After recovering consciousness he made his way home, where he asked the neighbours for help. They called an ambulance, which transported him to hospital, where a report on his condition was drawn up.

71. On 29 January 1997, a member of the national police force attached to the local police headquarters at Santa Coloma de Gramenet, which was located close to the residence of the victim, learned of the facts and went of his own accord to the latter's home. Having observed the seriousness of the injuries, he accompanied the victim to the above-mentioned police station to enable him to make the statement necessary for appropriate action to be taken to arrest the attackers. Owing to his injuries the victim was unable to make a statement; he was taken back to the hospital, where the second part of the report on his condition was drawn up. Once his state of health had improved the victim made his statement on 30 January 1997, and the investigation (No. 760) was referred to the investigating magistrate at Guardia de Santa Coloma de Gramenet.

(b) Campo di Cartagena (Murcia)

72. **Attacks on immigrants.** During January and February 1997, 11 cases of attacks on immigrants (the majority of them North Africans working in different localities in the Campo di Cartagena) were reported. The attackers use sticks and stones; they generally operate from two cars and attack individuals walking or cycling along the road. Most of these attacks have not been reported to the Civil Guard, since the papers of the victims are not in order.

Government reply

73. In January and February 1997, 11 cases of attacks on immigrants were reported; the majority of the victims were North Africans working in different localities in the Cartagena region. The attacks took the forms of blows with sticks and stone throwing; they were perpetrated from two cars when the victims were walking or cycling in the street. The majority of the incidents were not brought to the attention of the Civil Guard, since the papers of the victims were not in order.

74. The competent police authority is the gendarmerie by virtue of its territorial competence. Consequently, the national police forces do not intervene in these cases.

(c) Granollers (Barcelona)

75. **A group of skinheads attacked a young Gambian.** Two of the attackers were arrested after striking B.K., seriously injuring him. B.K. has filed a complaint and is awaiting the judgement.

Government reply

76. Bahoreh Konthe, a Gambian citizen with identity papers No. 1393208-Y, born on 1 January 1960 at Demba Kumda (Gambia), the son of Tamba and Mesa, residing at 189 Via Girona, flat 4D, complained, in statement 4786 of 30 November 1996, of having been physically attacked and threatened with a knife by a group of skinheads.

77. Following inquiries conducted by the police officers in charge of the case, Tomás Revelles Carrasco was arrested on suspicion of having participated in the incident. In the statements he made voluntarily at the police station and in the presence of his lawyer, he named Sergio Mallorga Resina, the holder of identity card 47.706.700, as the perpetrator of the attack.

78. Sergio Mallorga was arrested by members of the national police forces and stated at the police station that the person who had produced the knife and threatened the Gambian national was Sergio Ocana Teriz. The latter also admitted participating in the attack, although he claimed that it was the result of a scuffle provoked by the person attacked. When Sergio Ocana, after his arrest, made a statement at the police station, he alleged that Sergio Mallorga had been the attacker of the Gambian national, but that he himself had not produced a knife.

79. The three persons were released, and report No. 1651, dated 22 April 1997, supplementing report No. 4786 dated 30 November 1996, was referred to the investigating magistrate at Guardia de Granollers.

(b) Murcia

80. **After harassing a number of immigrants, a gang of skinheads battered a young Moroccan, seriously injuring him (18 March 1997).** At about midnight a dozen skinheads on the loose in the Malecón district, after harassing several immigrants, chased a young Moroccan, Watiby M.D., and beat him with baseball bats and chains, causing him injuries which made it

necessary to hospitalize him. It appears that the group of aggressors - youths of approximately 17 years of age - were led by two men in their thirties who were the principal authors of the attack. Other similar acts have occurred in recent months; this has led the parties of the Left and the trade unions to demand that the Government delegate should open an inquiry to determine whether neo-Nazi groups were implicated in those incidents.

Government reply

81. A band of skinheads, after chasing several immigrants, beat a young Moroccan, injuring him (18 March 1997). At about midnight a gang of about a dozen skinheads on the loose in the neighbourhood of the jetty chased several immigrants, then went on to hunt down a young Moroccan, Watiby M.D., and beat him with baseball bats and chains causing injuries for which he had to be hospitalized. It appears that the group of attackers, which was made up of youths of about age 17, was led by two men aged about 30, who were the actual perpetrators of the attack. Similar incidents have occurred during recent months. That situation has led the Left-wing parties and the trade unions to urge the Public Prosecutor to open an inquiry in order to determine the responsibility of neo-Nazi groups in the incidents.

82. Intervention by the police. At the request of intervention section 091, a police patrol went to the spot and took the injured man to hospital for treatment; he remained under observation for a few hours. A report on his condition was established. The patrol made a report on its intervention to the department for the receipt of allegations in the principal prefecture; the latter transmitted it, under serial No. 5965, to investigating magistrate No. 4 in Murcia. The provincial information squad continued its inquiries, but without result.

83. Remarks. At the time this case gave rise to the dissemination of a great deal of information alleging that the case was clearly racist in character. However, the police are of the opinion that in fact the Moroccan made a gesture of sexual provocation at a young Spaniard travelling around on a moped with a group of friends. The young Moroccan did not cooperate with the police investigators - it has been difficult to trace him, since he has never given his address, even though his papers were in order - and he gave the impression of having been manipulated. Likewise, he did not give the names of the persons implicated in the case.

(e) Zaragoza

84. **Five skinheads tie up a Senegalese national and dump him on waste ground (8 April 1997).** A young Senegalese, Ismaila N., was accosted early in the morning by a group of five skinheads; after hitting him on the head, they bound his hands and feet with wire and left him on a patch of waste ground. The young man was found the next morning showing symptoms of hypothermia and was taken to hospital.

Government reply

85. Complaint No. 3667, lodged on 8 April 1997 at the central police station in Zaragoza, states that Ismaila Ndiaye, a Senegalese national, born on 2 June 1972 at Grobel (Senegal), the son of Sernioai and Abinavi, residing at the time of the alleged facts at 1 Plaza Santo Dominguito del Val, third floor, left, was proceeding along Vía Urrea in Zaragoza at

approximately 2 a.m. on that day when he was insulted, attacked and tied up with string and wire and then left in a building in the same street, by five persons between ages 25 and 30 with shaved heads and wearing boots and short-sleeved shirts. They said that they had acted in that way **"because he was Black"**.

86. The measures then taken to verify the facts and to identify the attackers yielded no results; the victim was shown a large number of photographs of skinheads and other persons with past records of participation in other xenophobic or racist attacks, but recognized none of them. Likewise, the other inquiries effected among neo-Nazi and skinhead groups yielded nothing. It was impossible to verify whether the attack had in fact taken place. The owners of the building in Vía Urrea where the complainant was abandoned, and the people living near that building, were also unable to provide any information.

(f) Granollers (Barcelona)

87. **A group of youths insult and beat a Senegalese national (April 1997).** Six youths aged between 18 and 20, after calling David K., aged 32, married to a Catalan woman and the father of two children, a "dirty nigger", waited for him to park his car and walk towards his brother's house to accost him once again and beat him with iron bars.

Government reply

88. In complaint No. 1475 dated 5 April 1997, Diskhaby Koumera, bearer of identity papers No. X-1512873-W, born on 3 July 1964 at Diakha Medina (Senegal), the son of Bangali and Sira, residing at 8 Vía Argimón, Flat 2, in Barcelona, stated that four persons had insulted him in the street, calling him a "dirty nigger" and a "negro son of a whore". It appears that the complainant, who had protested at their insults, was attacked by the youths with sticks and sprays.

89. Officers of the national police force attempted to undertake the necessary inquiries to establish the facts; but their efforts were unrewarded as no witnesses came forward. However, according to information provided by persons living in the area, the incident did not take place in the manner in which it was reported. It began when three persons, including the complainant, passed by four other persons sitting on a bench who made a jocular remark about the straw hat one of the Black youths was wearing.

90. The subjects of the remark must have resented it. Tempers rose, and the two groups picked up short lengths of electric cable lying on the ground with the intent of beating each other. Contrary to what the complainant stated, in no case did they use sticks. The scuffle did not develop further, because the inhabitants of the area who were in the neighbourhood intervened.

91. Subsequently the complainant stated his version of the facts and on the following Monday took part in a radio broadcast to denounce the incident publicly. The inhabitants of the neighbourhood consistently refused to tell the police who were the presumed attackers, because they considered that all concerned shared responsibility for the incident. A few days later the association of the inhabitants of the district held a meeting, at which representatives of

SOS Racismo were present, during which light was thrown on all the details of the incident. The investigating magistrate in Guardia de Granollers was assigned responsibility for the inquiry by the police station in Granollers on 5 April 1997.

(g) Sabadell (Barcelona)

92. **Three skinheads attacked a young Black (April 1997).** Salimo X.S. was crossing the Rubió i Ors esplanade on a pedestrian crossing when the occupants of a car began to insult him, calling him a "nigger and a son of a whore". Then one of the passengers got out of the car with an iron bar ready to hit him; they threw stones at each other, and Salimo was injured. The police later arrested the young skinheads and found knives and Nazi symbols in the vehicle.

Government reply

93. As regards the attack on Salimo Silla, bearer of identity papers No. X-1418625-P, born on 14 December 1961 in Guinea-Bissau, the son of Mahmadou and Fatumata, residing at 88 Via Llobregat in Sabadell, complaint No. 4582 was lodged on 25 April 1997, and the attackers - Juan Sánchez Campaña, Antonio Navarro Huete and Ángel Calahorro Jacobo - were arrested on the very day of the incident by members of the national police force from the local police station in Sabadell. At the time of their arrest they were carrying three knives and insignia with Nazi symbols on them. The case was referred to the investigating magistrate in Sabadell.

(h) Santa Coloma de Gramanet (Barcelona)

94. **Skinheads attacked a municipal councillor who tried to defend two immigrants at the April Fair (April 1997).** A group of 15 skinheads, after chasing a young North African and a young Black man, who took refuge in the Iniciativa por Catalunya (IC-EV) stand, attacked the stand and injured the representative of that association, Manuel Garcia.

Government reply

95. As regards the attack which is the subject of a complaint by Manuel Garcia Cuesta, bearer of identity card No. 52.399.809, born on 5 December 1972 at Santa Coloma de Gramanet (Barcelona), the son of Manuel and Maria, residing at 53 Via Pompeu i Fabra, 3rd floor, flat 2a, in Santa Coloma de Gramanet, the complainant alleges in his statement (No. 2866, dated 27 April 1997) that he was attacked by four or five young skinheads forming part of a larger group who had entered the Iniciativa per Catalunya stand installed inside the perimeter of the April Fair being held in Santa Coloma de Gramanet. They violently attacked a man of Arab origin and insulted and threatened a black waiter who was working in the stand.

96. The incident took place when the complainant, together with two friends, approached the group of agitators with the intention of protecting the two foreigners and ordering the skinheads off the premises. Once outside, the skinheads began to throw stones and chairs at the stand, and the complainant received kicks and punches which knocked him down. Before the arrival of the police, who had been called by an employee in the stand, the attackers had run away, but the complainant had managed to hold one of them down. The latter was arrested and taken to the police station, where he made a statement.

97. The person arrested was Angel Arriaga Marchena, bearer of identity card No. 53.078.575, born on 17 August 1979 in Barcelona, the son of Emilio and Dolores, residing at 2 bis Via Europa, flat 1a, in Badalona. In his statement he declared that he was at the place where the incident took place in the company of three friends, but that none of them had taken part in the attack. Subsequently the friends of the detainee whose names follow were summoned to make statements: Ivan Barriga Vega, bearer of identity card No. 46.763.361; Abel Lorenzo González, bearer of identity card No. 46.703.258; and David Peral Pérez, bearer of identity card No. 53.074.879. The case was referred to the investigating magistrate in Santa Coloma de Gramanet.

(i) Valencia

98. **A Tunisian was attacked by bouncers in a discotheque because he is an "Arab" (3 June 1997).** A security employee in a discotheque in Valencia asked Facuzi H. his nationality; on learning that he was Tunisian he ordered him to leave the premises. He refused to do so, and the two security employees (apparently skinheads) beat him brutally and threw him out into the street. Facuzi then went to seek the assistance of the national police, but the officers did nothing to arrest the attackers, contenting themselves with taking him to the general hospital. This is the second time that Facuzi has been attacked because he is Tunisian.

Government reply

99. As regards the attack on a Tunisian by the doorkeepers at the "KUBA" discotheque in Valencia, it is a fact that on 31 May 1997 Facuzi Jeridi, a Tunisian citizen, bearer of identity card No. 830, born on 22 May 1967 at Gabes (Tunisia), lodged complaint No. 6654 against the management and the employees of the "KUBA" discotheque for a racially- and xenophobically-motivated attack.

100. The inquires undertaken led to the arrest of four persons connected in some way with the discotheque and suspected of being implicated in the attack. These inquiries, together with the statements concerning the incident made by witnesses, seem to suggest that a fight started between the Tunisian and at least one other person, that the altercation took place in the street at the door of the discotheque, and that the young Tunisian received injuries which were treated in a dispensary. It was impossible to establish clearly whether or not all the injuries were the result of the fight.

101. The allegation of xenophobia and racism made by the complainant seems equally unfounded; the facts as described in complaint No. 5398 of 6 June 1997 indicate that, if not an act of "sexual aggression", at least a possible act of violence was committed against a girl who, when describing the incident to other persons, including the employees and her fiancé, stated that the altercation had taken place at that moment. It should be added that the discothèque in question employs an Arab as doorkeeper and that the Tunisian is well known by the employees and the customers as a habitué of the place. That means that his being an Arab was not an obstacle preventing him from frequenting the discothèque.

102. Finally, it should be mentioned that this young man has used 10 different names and given differing information concerning his identity and nationality on the 27 occasions on which

he has been arrested for offences of robbery with violence and intimidation, housebreaking, breaches of the legislation concerning foreigners, acts of violence against representatives of authority, resistance and obstructionism, possession of weapons, petty thefts, etc.

(j) Madrid

103. **Four Skins stabbed a young man who had taken up the defence of a Black friend (20 June 1997).** At the exit from the Bilbao underground railway station four skinheads insulted a Black boy and his friends, the result was a scuffle in which one person received a serious stab wound. The skinheads, aged between 19 and 22 years, succeeded in escaping.

Government reply

104. Police inquiry No. 25.252, concerning the wounds a youth is alleged to have received while trying to defend a Black friend on 20 June 1997, was opened on the same day; inquiry No. 3974/97 was conducted by investigating magistrate No. 27 in Madrid. A provisional order to drop the case was issued on 30 July 1997 in the absence of any known perpetrator.

105. It should be mentioned that following the inquiries into the facts of the incident the victim himself, Rafael Vecino Soriano, and the witnesses, Williams Alexis Fernando and Gabriel Menéndez Arroyo, both friends of his, were in agreement that the attackers, although they had the appearance of skinheads, were more likely to have been "Bakalaeros" attracted by violence. It would therefore appear that the incident was in no way racially motivated.

(k) Murcia

106. **The Murcian skinheads returned to the attack (4 July 1997).** This time the victims were two North Africans residing in Cieza who were leaving the law courts, where they had gone to attend to their residence permits. The Skins, who were travelling around on motorcycles and mopeds, surrounded them and set on them, beating them in the open street at 2 p.m. under the dumbfounded gaze of passers-by. On the intervention of a local police patrol, the attackers fled, but before leaving they threw one of the Moroccans to the ground and beat him with an iron bar.

Government reply

107. The skinheads have returned to the attack (4 July 1997). The victims of this incident were North Africans residing in Cieza who were leaving the law courts, where they had to obtain their residence permits. The skinheads, who were travelling around on motorcycles and mopeds, surrounded them and began to beat them in the open street at 2 p.m. under the astonished gaze of the passers-by. On the arrival of a local police patrol the attackers fled, but before leaving they threw one of the Moroccans to the ground and beat him with an iron bar.

108. Police inquiry. One of the victims, Abdelkibir Maadour, a Moroccan citizen, went to the complaints office of the principal prefecture and described the incident. The provincial investigations squad prepared report No. 14.985, which was transmitted to investigating magistrate No. 13 in Murcia. A report on the condition of the victims, describing their injuries,

was prepared. The two victims affirmed that they recognized two attackers from among the photographs shown to them. It emerged that the persons identified no longer had the same physical features as in their photographs, thus the possibility of their involvement was eliminated.

109. The incident took place at 2 a.m. in a public park known as a place of male prostitution and of acts of aggression and provocation between Spanish and foreign "chaperos" (homosexuals). The description of the incident has brought to light errors which have no incidence on the inquiry.

(l) Badalona (Barcelona)

110. **Two skinheads robbed and attacked a North African (September 1997).** At 11.30 p.m. two skinheads threatened a North African selling tobacco in Via del Mar with a knife and robbed him of two cartons of cigarettes and 7,000 pesetas. They then insulted him and beat him until the local police arrived and drove them off.

Government reply

111. In the case of Mohamed Anjun Khan, a Pakistan national, bearer of passport No. A-56246, born in Karachi (Pakistan) on 9 March 1960 and residing at 5 Via Sant Cugat, first floor, in Barcelona, who was robbed and attacked by two skinheads, the national police force has only undertaken to carry out the necessary inquiries (No. 6492) and to transmit the results to the investigating magistrate in Barcelona, this because the actual intervention was effected by members of the Barcelona city police, which was responsible for policing of the area in which the incident took place and was called by a number of citizens who had witnessed the incident.

112. Members of the municipal police took Alejandro Izquierdo Gálvez, bearer of identity card No. 46.717.342, to the premises of the national police in Badalona, where he was arrested and charged with an offence of robbery with intimidation, assault on the public highway and usurpation of functions. He was remanded in custody, and the case has been referred to the courts.

(m) Valencia

113. **A skinhead-style group stabbed a Black Portuguese citizen (28.11.98).** Manuel G.N., hailing from Lisbon and aged 33 years, was brutally attacked by a person resembling a skinhead who stabbed him with a knife while threatening him in the following terms: "We do not want either Blacks or Arabs in Spain, so go back to your country". An eyewitness called the police and stated that he had seen the attacker stab Manuel, who had to undergo an emergency operation. This is the second time that Manuel has been a victim of a racist attack; during the previous year he had been beaten and stabbed by two young neo-nazis in Madrid.

Government reply

114. The information concerning the attack on a Portuguese citizen known as Manuel G.N., of Black race, by a group related to the skinheads, who are alleged to have stabbed him with a knife

on 28 November 1998, is as follows: the attack took place on 28 November 1997, and the inquiry into the facts gave rise to complaint No. 5949. The complainant, who claims to be Manuel Gonsals Nums, a Portuguese citizen, is in actual fact a certain John Cook, born on 10 June 1963 in Kepama (Liberia), the son of Bonkue and d'Aba, with no known residence, who has been arrested several times for drug trafficking and breaches of the legislation on foreigners, giving different names and different information on his identity on the occasion of each arrest. In the replies he gave while he was still in hospital, the complainant stated that the incident occurred while he was attempting to come to the assistance of a friend of his without means who had been attacked by two individuals who were on the spot.

115. The inquiries carried out and the statements of the witnesses indicate that the incident occurred following a discussion among four persons - the complainant, his indigent friend and two other persons. The reason for the discussion is unknown, and no type of motive can be excluded, although racism and xenophobia cannot be proved either. The incident occurred in the Carmen district of Valencia. It appears that the discussion began at one place and that the persons involved continued to argue until they arrived at a nearby street, where the person claiming to be Manuel Gonsals was stabbed while the altercation between the four individuals was still going on.

116. In their statements the witnesses gave no information proving that a group of skinhead-style youths was involved, apart from one of them, who said that he had heard xenophobic statements. In fact, there seems to have been a discussion which went on until 2 a.m. in a neighbourhood frequented by the homeless and by drug addicts and in which incidents of this type occur frequently. Finally, in the absence of cooperation from the complainant, it is impossible to make progress with the inquiry for purposes of identifying and arresting the perpetrators and learning their motivations. Once the complainant had left hospital he took no notice of the instructions given by the investigators, who had asked him to report to various departments of the police and the judiciary.

(n) Santander

117. **A well-known Korean national was called a "Chinese bastard" and beaten up (December 1997).** Chang Y.K.B., a Korean national, aged 52 years, an acupuncture practitioner and an international taekwondo umpire, was attacked and violently beaten by a group of six youths, who threw themselves on him shouting "you Chinese bastard, you dirty Chink, we are going to beat the daylights out of you". Although he managed to defend himself against his attackers, thanks to his knowledge of martial arts, he sustained a major injury to his eye which has resulted in a partial loss of visual acuity.

Government reply

118. According to the information supplied, the incident, which involved Mr. Angel Yang Kim Bion, a Spanish citizen of Korean origin, occurred at the door of a bar where a group of individuals were standing. They shouted insults at the victim, who reacted by making unarmed combat gestures (he is a teacher of martial arts and Taekwondo in two secondary schools). These gestures provoked the group into attacking him. After the incident a report identifying the

person who had provoked the attack was drawn up. That person was subsequently tried and sentenced to 22 months' imprisonment and a fine of 210,000 pesetas, to be paid to the victim in respect of his injuries, which took a month to cure

119. Contrary to what is stated in the allegation, the injuries sustained have not had the serious consequences mentioned in the statement. It should also be mentioned that, contrary to the allegations put forward by SOS Racismo, which submitted the complaint, the courts did not make any mention in their judgement of criminal behaviour inspired by racism or xenophobia. The victim had not experienced any other incidents of this type during his 23 years of residence in Spain.

(o) Tarrassa (Barcelona)

120. **The dwelling of a Senegalese family and an Arab butcher's shop set on fire (December 1997).** According to some of the information received, the perpetrators of these two racist and xenophobic attacks appear to have been youths inspired by fascist ideology and connected with the "white and blue" squads which are responsible for the fascist graffiti which have appeared all over the town. The two incidents appeared within the space of a few hours only. In the first case, the entrance to an Arab butcher's shop belonging to a Moroccan national was set on fire; a few hours later, persons unknown set fire to the dwelling of a Senegalese family. Nobody was injured, but the population and a number of associations were disturbed by the presence of xenophobic and fascist groups in the town. A few days later over 200 persons demonstrated to express their revulsion at acts of this kind. However, the municipal authorities consider that such acts are "isolated and sporadic".

Government reply

121. As regards the incidents which occurred in Tarrassa during the month of December 1997, it should be stated that following a complaint filed by Malik Ndiaye and Mor Anton Ndiaye, Senegalese nationals, on 20 December, to the effect that the entrance door to their dwelling had been set on fire, the case (No. 12,359) was referred to the local police station in Tarrassa. The fire caught because the door had been splashed with petrol. According to the complainants, a similar incident had already occurred on 22 November 1997.

122. Following a police inquiry, Abraham Escámez Muela and Jonathan Contreras Martínez were arrested and remanded in custody in connection with case No. 12488, which complemented the earlier file. It should be mentioned that these two individuals have a known record of delinquency but are not members of skinhead groups or other similar groups. In addition, on the same day one of the sons of the couple in question lodged a complaint to the effect that he had been the target of racist insults uttered by youths in the neighbourhood.

123. As regards the complaint forming the subject of case No. 12464, lodged at the local police station in Tarrassa on 20 December 1997, in which Said Assarar, born on 16 November 1964 at Kinitra (Morocco), the son of Mohamed and Fatima, residing at 4 Vía Gregal in Tarrassa, alleged that his halal (Muslim) butcher's shop had been set on fire, it should be pointed out that the damage caused was slight; a 33 cl plastic bottle containing petrol exploded, setting alight the curtain at the entrance to the shop.

E. United States of America

Case 1998/1: Allegations of racism and racial discrimination in the Lewisburg penitentiary (Communication dated 22 September 1998)

124. It has been alleged that on 25 October 1995, 13 inmates at the penitentiary at Lewisburg, including a Mr. Patrick, were beaten without any reason. All the relevant details are supplied in a copy of the lawsuit filed in the District Court for the Middle District of Pennsylvania and dated 17 November 1997. In that copy there is a description of each of the 13 cases of aggression, including that against Mr. Patrick. Mr. Patrick has alleged that he was handcuffed and escorted down a corridor where he was savagely hit on the back of his head, then pushed down stairs. He was then repeatedly punched on his face and body and subjected to racial slurs. He was ordered to lie face down on the floor, which was covered in urine, faeces, blood and vomit, and was forced to stay in that position for many hours. He was then robbed of his wristwatch before being sent back to his cell. Mr. Patrick was then denied medical treatment which he seriously needed. He is currently incarcerated at the penitentiary in Marion, Illinois.

Government reply

Background information

125. On 20 October 1995 the Federal Prison Administration ordered a nationwide lock-down of all federal prisons as a precautionary measure following serious disturbances which had occurred in penitentiaries in various parts of the country. These disturbances were precipitated by the belief, which was very widespread among inmates, that the legislation on drugs was biased against African-Americans and that harsher penalties were imposed for offences involving crack cocaine (reportedly used primarily by African-Americans and other minorities) than for those involving powder cocaine (reportedly used primarily by Caucasians) were aimed primarily at minorities. That belief, together with the fact that they had just learned that the United States Congress had voted to maintain the distinction in sentencing between the two forms of cocaine and that the entire question had received considerable publicity during the "million man march", a major demonstration by African-American men, which had taken place on 16 October. It appears that all those elements taken together triggered the disturbances. Riots broke out in six federal prisons, and in particular on 20 October 1995 in the correctional facility at Allenwood in Pennsylvania, situated about 20 miles from the penitentiary at Lewisburg.

126. The prison in Lewisburg had applied maximum security conditions from 20 October onwards. The administration began partially to restore inmate programmes on 23 October, but was unable to continue on account of a renewal of unrest. Tension continued to rise between inmates and prison staff, the latter having learnt that an event - a collective protest or some other hostile demonstration - was being prepared in the prison. It was decided to remove from the general prison population certain inmates who had been identified as having a disruptive influence.

127. Towards 1 a.m. on 25 October, a number of prison warders arrived at the entrance to one of the dormitory units to take away the inmates who were to be separated from the others. The inmates then began to break lights and windows, to flood the floor with water and to pour liquid

soap on it to make a slippery surface. They also disconnected electric wiring and placed it in the water in order to electrocute prison staff entering the unit. They also set fire to various parts of the building and fired a missile they had put together with tubing at the warders attempting to enter the unit. The prison authorities then concluded that the unit could no longer be kept secure and decided to act immediately to prevent further incidents.

128. The prison administration invited inmates who did not wish to take part in the disturbances to leave the unit, but without result. As the inmates had broken the lights, the prison staff could not see where they were or whether they were armed. They therefore threw tear-gas grenades into the unit before entering. The inmates were then restrained in straitjackets and taken to the clothing warehouse area in the basement of the prison, where they were assembled pending a decision on where to house them subsequently.

129. The disturbance spread to another dormitory unit, and the prison staff proceeded in the same manner as during the first incident. Some 150 inmates were removed from various units and taken to the clothing warehouse. Some of them went quietly, but many of them resisted violently, and several warders were savagely assaulted. Body searches revealed that some of them were carrying home-made knives; the staff also found many weapons in the dormitory. Several inmates were able to break free from their plastic straitjackets and had to be restrained again. The rioters were left under partial restraint in this way until a sufficiently secure unit could be found to house them in. The prison staff spent the rest of 25 October employed in that task, removing inmates who had previously been housed in the selected unit and moving the inmates grouped in the clothing warehouse to the unit thus cleared.

130. The prison officials state that health service staff were on the premises throughout the morning of 25 October to provide medical care for both inmates and prison staff. Inmates were screened for injuries and were taken to the health service unit where necessary. They could also ask for pastoral care and support, since religious services staff were also present. Inmates whose clothing had become wet or contaminated with tear-gas were provided with additional clothing, and those who wished to go to the toilets were taken there. The state of health of all inmates who had been exposed to tear-gas was then checked daily for 14 consecutive days in accordance with federal penitentiary regulations.

Admissibility of allegations of racism and discrimination

131. The Branch et al. law suit (13 complainants, including Mr. Patrick) is still in the pre-trial discovery phase. The prison administration has not yet established all the facts relating to allegations of racism and racial discrimination. The communication referred to by the Special Rapporteur was sent to him at the instigation of Mr. Patrick.

132. While the riot is at least partly attributable to the fact that many inmates believed that they saw a racist bias in sentencing in drugs cases, the information obtained points to the conclusion that the prison staff was not motivated by considerations of race. In the Branch et al. case, eight of the complainants are African-Americans, one a Hispanic and four Caucasians; this would indicate that the rioters were from diverse ethnic backgrounds. The same is true of the prison staff members named in the case, seven of whom are Caucasian, two African-Americans and two Hispanics. The information collected refutes the allegations of the complainants; there

is no evidence that the representatives of the prison authorities acted in a gratuitous or unprovoked fashion and not with the aim of quelling the disturbance. In fact, they were responding to a dangerous situation in which a large number of prisoners were engaging in violent disturbances.

133. The prison administration states that 7 of the 13 complainants, including Mr. Patrick, were in prison for reasons other than drug offences. Mr. Patrick had been sentenced for armed robbery with violence by the court for the District of Columbia. Thus their allegations of racism cannot logically be tied to allegedly discriminatory sentences pronounced in cases of drug offences.

Case 1998/2: allegation of racism and racial discrimination in Green Haven Correctional Facility (Stormville, New York (communication dated 22 September 1998))

134. Mr. Amaker, who is currently detained in Green Haven Correctional Facility (Stormville, New York), alleges that he was beaten on 3 November 1995 with batons and a flashlight in retaliation for writing complaints against the officials of the prison.

135. Following that incident, Mr. Amaker asked for a medical examination, and in particular for an MRI x-ray, which he was denied for two years. Eventually he was examined by Dr. Lester Silver, who said that Mr. Amaker's allegations were lies, covering up the alleged abuses, in violation of the Patients' Bill of Rights. The plaintiff claims that he has suffered serious injury to the head, back, arms, legs and face. He also suffers from psychological disturbances due to post-traumatic stress caused by systematic reprisals and intimidation, flagrant manifestations of racial discrimination and imprisonment for five years in a special unit in the establishment. Mr. Amaker also claims that his religious beliefs (as a Muslim) were not respected, since he was forced to have an anti-tuberculosis injection containing human protein.

136. Mr. Amaker brought an official civil complaint before the United States District Court, Eastern District of New York, on 28 November 1996, but no sanction has been taken against the prison officials.

Government reply

137. Mr. Amaker alleges that after he had made written complaints against officials at the Green Haven prison, he was brutally beaten as a reprisal and was denied medical care. He says that he received serious injuries on the head, neck, arms, legs and face during this incident, which occurred on 3 November 1995; he also alleges that he suffers from psychological disturbances following a traumatism caused by continual punitive and vexatious measures and flagrant racism. He states that he was placed in a special unit of the prison for five years. He also considers that his religious beliefs were violated, since he was forced to take an anti-tuberculosis injection containing human protein. The communication states that on 28 November 1996 Mr. Amaker opened civil proceedings against the prison administration.

138. Mr. Amaker provides no details of his complaints against the prison administration, he does not indicate the date on which he made the complaints or of their content. Nor does he offer any evidence in support of what appears, with the incident of 3 November 1995 and the

denial of medical treatment, to be the essential object of his complaint, namely that he has been continually subjected to punitive and vexatious measures. He offers no explanation, either, of how the anti-tuberculosis injection violates his religious beliefs. Since he complains that no sanction has been taken against the prison staff, we may assume that his suit was found to be without merit. On the contrary, he himself was found to be at fault in the incident of 3 November 1995 and was convicted of assault.

139. The Government of the United States has nevertheless undertaken an investigation into the merit of Mr. Amaker's allegations. Mr. Amarker is currently an inmate of Green Haven prison in Stormville, New York State. He was convicted of murder committed during an armed robbery and had a prior conviction for murder with aggravating circumstances. According to information provided by the prison administration, on 3 November Mr. Amarker attacked without provocation several warders who were taking him back to his cell; some of them received injuries serious enough to warrant immediate medical treatment.

140. Mr. Amaker was sentenced by the Criminal Court of Duchess County (State of New York) to six months' imprisonment for assault, which he is currently serving concurrently with his murder sentence. An administrative disciplinary report for misbehaviour was issued, Mr. Amaker was given a due process hearing and found guilty. He was transferred to a special housing unit where he remained for about 19 months, following which he was returned to the general prison population in November 1998. The prison records state that in October of that year he was under the care of a doctor from the New York State Department of Corrections Services and has been treated by physiotherapy specialists.

Admissibility of allegations of racism and discrimination

141. Mr. Amaker provides no evidence of the "flagrant racial discrimination" which falls within the Special Rapporteur's mandate. On the contrary, all the evidence implies that it was he who initiated the incidents of 3 November 1995 and that it is a purely criminal matter, not an issue of racism or racial discrimination.

Case 1999/1: Allegations of racist violence by New York police

142. It has been reported that on 9 February 1999 civil rights activists and thousands of demonstrators called on the New York Police Department (NYPD) to investigate the shooting of a 22-year-old Guinean immigrant. Ahmed Diallo was killed last Thursday when local police fired 41 bullets at him in his apartment in the Bronx. This is the latest of several cases of apparent excessive use of force by white police officers against unarmed black and Hispanic civilians in recent years.

Government reply

143. No reply has been received to date.

F. Russian Federation

Case 1999/1: Allegations of anti-Semitism

144. The following incidents have been reported:

(a) 21 March 1999: Vandals sprayed anti-Semitic graffiti on the walls of a public school in Orel, which rents space to the local Jewish community for Hebrew classes. After seeing slogans like "kill a Jew" on the walls of the school, Jewish leaders say that they are afraid to continue holding classes there. Jewish Telegraphic Agency (JTA), 21 March 1999

(b) 17 March 1999: Speaking to a crowd of 50,000 supporters, Alsan Maskhadov, the leader of the breakaway republic of Chechnya, blamed "international Zionist centres" for trying to topple him from power. JTA, 17 March 1999

(c) 17 March 1999: Rostov Oblast Prosecutor General Sergei Ustinov refused to bring charges against General Albert Makashov for his anti-Semitic comments on 20 February in Novocherkassk. During his speech at a meeting of the "Movement to Support the Army", General Makashov suggested that the name of the organization should be changed to "Movement against Kikes". RFE/RL Newsline, 17 March 1999

(d) 8 March 1999: A synagogue was vandalized in the Siberian city of Novosibirsk. Vandals sprayed the walls with swastikas and the symbol of the neo-nazi group Russian National Unity (RNU), which resembles a swastika combined with a cross. Vandals also destroyed furniture and tore holy books to pieces. Local police played down the significance of the crime, calling it a childish prank. The RNU is very active in the Novosibirsk region, which is home to 10,000 Jews. JTA, 9 March 1999

(e) February 1999: Borovichi, Russia, has become a centre of a new wave of increasing anti-Semitism in rural Russia. Local Jewish leaders appealed to international monitoring groups to help defend them against an anti-Semitic campaign of terror orchestrated by the RNU. (In response, the Union of Councils for Soviet Jews (UCSJ) mounted an international campaign). Jewish graves have been desecrated, the city has been covered with anti-Semitic posters, and Jews have received mailed death threats. The campaign against the city's 500 Jewish residents began over a year ago when a local fascist group, "Myortvaya Voda", (Dead Water) sponsored anti-Semitic television ads, calling for the good Christians of Borovichi to kill one Jew a day. Local RNU members, whose meeting with local Cossack leaders and military recruiters have been featured on local television, are now organizing the recent wave of anti-Semitic activity. Uniformed RNU leaders are allowed to distribute their propaganda and enlist young members at local schools. UCSJ Press Release and Action Alert, 17 February 1999

Government reply

145. The declarations made by a certain number of militants of the "Movement to Support the Army, the Defence Industry and military research", of "Workers' Russia" and the "Officers' Union" at meetings held in Moscow on 3 and 4 October 1998 led the Public Prosecutor in that city to begin public action under Section 1 of article 280 of the Penal Code of the Russian

Federation (public incitement to changing by violence the constitutional order of the Russian Federation) on 13 October 1998. The inquiry into the facts of the case was entrusted to the Directorate of Federal Security Services for the city and region of Moscow. After verifying the statements made by A.M. Makashov, the Procurator-General began proceedings for a breach of paragraph 1 of article 282 of the Penal Code of the Russian Federation (incitement to hatred on national, racial or religious grounds). Special attention is being given to the investigation of this case.

146. Following the statements made by the Head of Administration of the territory of Krasnodar, M.I. Kondratenko, during the Kuban Youth Forum of 27 February 1988 and those made by V.I. Ilioukhin, Chairman of the Defence Committee (State Duma of the Russian Federal Assembly) during the meeting of the Special Committee of the State Duma on 15 December 1988, the Procurator-General opened an enquiry. Eventually the case was dropped, since the statements of N.I. Kondratenko and V.I. Ilioukhin did not constitute either public incitement to changing the constitutional order by violence nor incitement to hatred on national, racial or religious grounds. Moreover, V.I. Ilioukhin was addressing a small group of members of the Special Committee of the State Duma, and his statement was only made public through the intermediary of the media.

147. The Procurator-General's Department is devoting increased attention to combating political extremism and in particular to the enforcement of Presidential Decree No. 310 of 23 March 1995 concerning coordination of the action of the public authorities to combat manifestations of fascism and other forms of political extremism in the Russian Federation. The highest authorities in the State are kept regularly informed of measures taken in that sphere.

G. India

Case 1999/1: Racist violence against Dalits

148. It has been reported that on Monday, 25 January 1999, about 10 members of the Ranvir Sena, an outlawed landlord militia, attacked Shankarbigha, a village in Bihar. Most of the victims, who were dragged out of their homes and shot at point-blank range, were lower-caste Hindus.

Government reply

149. No reply has been received to date.

H. Islamic Republic of Iran

Case 1999/1: Allegations of anti-Semitism

150. It has been alleged that "theoretically, the 25,000 Jews living in Iran enjoy freedom of worship and are protected by the Iranian Government. Most of them work in the textile sector and have a reasonable economic position. They can also pray in their synagogues and, like the other minorities, have a representative in the Madjliss, the Iranian Parliament".

151. However, reality shows that the attitude of the Iranian authorities towards the Iranian Jewish community is discriminatory.

(a) Although no law actually says so, no Iranian belonging to the Jewish religion can be hired in a public service sector such as teaching, medicine or banking.

(b) Jewish Iranians have to perform two years of military service, but cannot be promoted to the higher ranks in the army or have a military career.

(c) Unlike Muslim citizens, a Jewish Iranian citizen has to undergo an in-depth interrogation and other tests as a sine qua non condition for obtaining a passport.

(d) Iranian citizens belonging to the Jewish religion are the only minority allowed to leave Iran only through Mahrabat International Airport. This restriction is stated in their passports, and this means that the name of the airport alone is synonymous with the word "Jew".

(e) In addition to their family name, all Jewish Iranians have the name "Kalimi" stamped in their passport to identify them as Jews. These two measures are a way of getting around criticism by the international community of evidence of racial and religious discrimination.

(f) Jewish Iranian citizens are strictly prohibited from visiting Israel. They have to sign a document in which they undertake never to go to Israel. Visits to Turkey and Cyprus are automatically suspected as possible visits to Israel. In the event of suspicion, the passports of the persons concerned are immediately confiscated or not renewed.

(g) Persons accused of "spying" are usually sentenced to the death penalty, which is reduced in some cases and commuted to life imprisonment.

(h) The telephones of a number of Jewish Iranian citizens are tapped.

(i) Young Jewish citizens reaching the age of military service cannot leave Iran during the months preceding their call-up.

(j) Jewish schools in Iran are under Muslim management and have consequently lost their Jewish character, as shown, inter alia, by the requirement that Jewish children must go to school on Saturdays (Sabbath).

(k) The most flagrant demonstrations of anti-Semitism and religious discrimination in the Islamic Republic takes place when Jewish citizens are accused of maintaining contacts with their relatives in Israel. These Iranians are then accused of spying on behalf of an enemy country and sentenced to very lengthy periods of rigorous imprisonment and, in some cases, to death.

152. Some examples of these discriminatory practices include:

(a) Parwiz Sasson Yachar, a 50-year-old Iranian Jew, emigrated to Israel with his wife and their four children in May 1990. After deciding to settle there for good in May 1993,

he went back to Iran to sell his property. Arrested on arrival, he was tried in April 1994 and sentenced to death for having maintained links with "Zionism". The sentence was then reduced to life imprisonment and he was ultimately released, this demonstrated that the charges were groundless.

(b) Mekukabed Fisolla, a 77-year-old Jew, was arrested on his way to the synagogue in May 1992. He was accused of "contacts with Zionism" and spying for Israel, whereas he had only been keeping up a correspondence with his family, which had emigrated to Israel a few years before. He was executed in Iran in February 1994.

(c) On 17 June 1996, a 60-year-old Jew, Azizulla Lamé, was hanged in his store in Tehran. The killers said that the Court of Allah had ordered them to hang him.

(d) On 29 December 1996, Hadiat Allahzandahal and Abd El Kassem Magid Abrai, two Iranian Jews, were accused of having tried to organize an anti-Islamic revolution and of spying on behalf of the United States and Israel. They were both hanged.

(e) On 21 June 1998, an Iranian Jew, Rouholla Kadkhoda Zade, who lived in Tehran, was executed by hanging for having been a "Zionist agent".

Government reply

153. No reply has been received to date.

V. FOLLOW-UP TO FIELD VISITS: LEGISLATIVE, JUDICIAL OR OTHER MEASURES TAKEN OR ENVISAGED BY GOVERNMENTS

A. South Africa

154. The South African Government has adopted a number of measures to combat xenophobia and residual forms of racism and racial discrimination. A vigorous campaign and a plan of action based on the theme "Roll Back Xenophobia" has been launched with the aim of reversing the tendency to be hostile to foreigners prevalent in South African society and of making for better coexistence with foreigners. The plan of action was designed by the National Consortium on Refugee Affairs, the South African Human Rights Commission and the Office of the United Nations High Commissioner for Refugees; during 1999-2000 it will be focused on the development of awareness of and education in human rights. **This will be a multimedia campaign including the use of all available forms of communication such as television, print media, radio and the Internet. Other interventions will include workshops for the police and civil servants, educators and journalists; letters and articles written to internal publications targeting the above-mentioned groups as well as newspaper articles and letters to politicians. Intervention for 2001 will focus on expanding on the activities of 2000. The campaign focus will be on hawkers, migrant workers, refugees and asylum-seekers, and the aim will be to facilitate local integration of refugees and migrants in South Africa.**

155. As regards measures to combat racism and racial discrimination, the South African Human Rights Commission has completed a study entitled "Racism, racial integration and

desegregation in South African public secondary schools" which was published in March 1999. It states that, notwithstanding the legislative reforms introduced to eliminate apartheid and better safeguard human rights, the South African school system is still perverted by segregation and racial discrimination. The study observes that:

> "Efforts at racial integration have not achieved the desired results, in part because learners approach school with the prejudices imbued in their home environments and the school has no mechanisms to challenge and stimulate the unlearning of ingrained prejudices, as well as transform the minds of learners. Educators exhibit little or no commitment to constructing a learning environment free from discrimination and prejudice. Too many prefer to deny the existence of racism or presume a superficial tolerance ... Four years since the miracle of '94, school playgrounds are battlefields between black and white schoolgoers. Formally white schools have become theatres of struggle for transformation as Black parents demand access for their children."

156. The study recommends a number of solutions. These include the promotion of egalitarian values throughout the school curriculum and the framing of anti-discriminatory policies for all South African schools. These policies should be directed at the training of teachers, representation of the different racial elements in society in establishments at all levels, the regular holding of seminars on racism, the establishment of ties between a school and the community in which it is located and better involvement of Black parents in the management of schools.

B. France

157. As the Special Rapporteur stated in his report to the General Assembly (A/54/347, para. 66), the French Government has adopted a series of measures designed to implement the recommendations which he made following his visit to that country in September-October 1995. Those measures include a revision of the laws on immigration (Pasqua laws), the granting of entry visas into France to people from the "South" and the procedure for the consideration of the cases of people detained in holding centres.

1. Revision of the laws on immigration

158. The laws on immigration were revised by Law No. 98-349 of 11 May 1998 concerning the entry and residence of foreigners in France and the right of asylum. As regards the entry and residence of foreigners, it offers improved safeguards of the latter's rights, particularly in the following ways:

(a) By requiring the production of reasons for the refusal of a visa to a foreigner in certain cases (members of the family of a European Union national, foreigners authorized to take up gainful employment in France, holders of permission to be reunited with their families, refugees recognized as such by the French Office for Refugees and Stateless Persons), and

(b) By automatically granting temporary residence permits to foreigners entering France for scientific or artistic purposes, proving the existence of personal or family

relationships in France, persons whose state of health requires medical care which they cannot obtain in their own countries and persons to whom the right of asylum has been granted.

159. As regards asylum, the law officially recognizes two types:

(a) It permits the granting of asylum, under the same conditions as the Geneva Convention of 21 July 1951, to any person persecuted on account of his or her activities to promote freedom, even if those persecutions are not inflicted by a State;

(b) It provides for territorial asylum, which may be granted by the Minister of the Interior to persons whose lives or freedom is threatened in their own countries, or who are exposed to treatment contrary to article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. Grant of entry visas into France for "people from the South"

160. On this point the French Government states that the general conditions for the issue of visas - both those permitting an extended stay in France and those issued for stays of less than three months in accordance with the Schengen agreements - have been relaxed. This relaxation is the outcome of a firm political determination to facilitate the movement and residence of foreigners in France, and particularly foreigners who have a connection with the country. The new regulations apply to all visa applicants, irrespective of nationality. The principal beneficiaries are nationals of countries of the South, with which France has traditionally had close relations.

161. As regards visas for periods of less than three months, persons who have to come to France frequently can obtain multi-entry visas valid for between one and five years and allowing them to reside in the country for up to three months in any half-year. Applications have also been facilitated by the replacement of the lodging certificate by an accommodation certificate, which is issued without any verification of the conditions under which the applicant will be accommodated.

162. As regards visas for medical care, France's policy is one of admitting persons who cannot obtain care in their countries of origin and have been accepted by a hospital in France. However, the admission of such persons must not give rise to any charge on the budget of the French Government. They are therefore requested either to prove that the cost of the care will be borne by an insurance scheme or some other body or to produce a certificate of prior deposit of the anticipated amount of the cost of hospitalization.

163. As regards the particular case of Algerian nationals, the French Government has just publicly stated its intention to increase the number of entry visas into France from 60,000 to 150,000 - and possibly 200,000 - annually.

3. Procedure for examining the files of persons detained in holding centres and conditions of expulsion

164. The period of detention in a holding centre may not exceed the "time strictly necessary" to arrange the departure of the foreigner. In addition, although the initial decision to place a person in a holding centre lies with the administrative authorities, the judiciary is informed after a period of 48 hours has elapsed and has sole power to authorize that person's continued detention in a centre for an initial period, which initially may not exceed five days but may be extended by a further five days. Thus the maximum period of administrative detention in a holding centre in France is 12 days.

165. As regards the conditions of expulsion of "illegal" entrants, the practice of escorting them to the frontier in groups has been discontinued. In accordance with the recommendations of the Special Rapporteur, the French authorities guarantee respect for the dignity of persons deported and do not have recourse to procedures considered "degrading".

C. Kuwait

166. Following the visit by the Special Rapporteur to Kuwait in November 1996 (see E/CN.4/1997/71/Add.2), the Kuwaiti Government states that the following measures have been taken to apply the recommendations of the Special Rapporteur.

1. Cases of persons illegally resident in Kuwait

167. The Kuwaiti authorities have adopted Decree No. 58 of 1996 to establish a commission responsible for dealing with the problem of foreigners whose presence in the country is undocumented. This decree is the best illustration of the determination of the Kuwaiti Government to provide a definitive solution to this problem. In accordance with the recommendations of the Commission, a number of undocumented foreigners in the country, and in particular the children of martyrs - in recognition of the sacrifice accepted by their parents - and the children of Kuwaiti widows who were married to persons of unknown nationality, have, in the light of their peculiar circumstances and recognized standards in that field, been granted Kuwaiti nationality. The Commission is at present working unremittingly to obtain Kuwaiti nationality for all persons entitled to it under the law.

2. Creation of an agency for the recruitment and placement of foreign skilled and unskilled labour

168. A directorate for domestic staff has been established in the Ministry of the Interior. Its principal tasks consist of enforcing the provisions and rules laid down in the legislation on the organization of recruitment agencies for domestic workers and to receive applications for work permits from recruitment agencies for foreign domestic workers. It is also empowered to watch for breaches of the law, to prepare reports on agencies and individual workers who breach the law and where necessary turn them over to the competent authorities for the adoption of appropriate measures.

3. Improvement of the conditions for the detention and deportation of persons who have committed breaches of the law

169. The Kuwaiti authorities strictly apply all the international rules governing places of detention, and in particular those relating to the nature of meals, the rations served to detainees, the space which each detainee should enjoy and necessary medical treatment. In addition, surveillance in places of detention has been strengthened to prevent any abuse on the part of prison staff. The authorities have also opened the doors of places of detention to representatives of international organizations to enable them to inspect the conditions under which detainees are held. Furthermore, they have taken all necessary measures to ensure that no one is deported from Kuwait without having received all his entitlements.

4. Adoption and enforcement of legislation or a uniform labour code in conformity with international instruments

170. The competent authorities have drawn up a new labour code in cooperation with a commission consisting of representatives of the social partners (Government, workers and employers). Within this process the technical assistance of the International Labour Office was requested; the latter's experts cooperated in the preparation of the final text of the draft. It is thus clear that the Kuwaiti authorities have spared no effort in securing the promulgation of a new labour code and have taken particular care to ensure that its provisions are in line with the international instruments ratified by Kuwait.

5. Ratification of international human rights instruments and in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

171. The Kuwaiti authorities wish to reaffirm in this connection that the State of Kuwait has acceded to most of the international human rights instruments. Certain instruments are still under study; one of these is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which is at present being examined by the competent authorities. That being said, the rights enshrined in the Convention are already protected in Kuwait by the law and the courts.

VI. CONCLUSIONS AND RECOMMENDATIONS

172. All the events recounted above indicate that manifestations of racism, racial discrimination and related intolerance are continually occurring in different regions of the world. In addition to the cases of xenophobia and anti-Semitism, the Special Rapporteur notes that discrimination against the Roma still exists in several European countries, where they are subjected to exclusion and marginalization. It would be desirable for the Commission on Human Rights, in cooperation with the Governments concerned, to devote particular attention to the Roma in order to secure their integration in the countries in which they reside; the measures taken to assist them should be focused primarily on the improvement of the teaching and the vocational training they receive and on the development of awareness of differences and of tolerance among the majority population groups.

173. The Special Rapporteur remains concerned at the discriminatory manner in which the death penalty is applied in the United States of America and hopes that the advent of a new millennium will also offer an opportunity for that great country to envisage penal sanctions more in line with the international human rights standards and with the prevailing tendency, which is towards the abolition of capital punishment. He is delighted that most of the countries he has visited, like France, Kuwait and South Africa (to mention only countries referred to in this report), have given effect to his recommendations by adopting appropriate measures to check the development of racism, racial discrimination and xenophobia. He hopes that those States which have not yet reacted to his recommendations will inform him of the follow-up action taken on his missions in order to contribute to the satisfactory performance of his mandate.

174. The Special Rapporteur hopes that the Commission will continue to give priority to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should create a place of primary importance for education in the rights of the human person and the culture of tolerance, peace and non-violence.